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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,836	08/02/2001	Douglas A. Newberg	2153-0116P	4362
2292	7590	07/08/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			CROSS, LATOYA I	
			ART UNIT	PAPER NUMBER
			1743	
DATE MAILED: 07/08/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/919,836

Applicant(s)

NEWBERG, DOUGLAS A.

Examiner

LaToya I. Cross

Art Unit

1743

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 14-17,20,21,31-34 and 36-40.

Claim(s) objected to: 23-26 and 30.


Claim(s) rejected: 10,12,18,19,27-29 and 35.

Claim(s) withdrawn from consideration: none.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Continuation of 5. does NOT place the application in condition for allowance because: Applicants traverse the Examiner's conclusion that the limitation "when said filled receptacle housing and said housing are removed from each other" is functional language not accorded patentable weight pursuant to MPEP 2114. Specifically, Applicants argue that Hashimoto et al fail to teach a seal and a filled receptacle holder that is removably mounted to the housing. Thus, allegedly, the recited functional language is cannot be inherently performed by the system of Hashimoto et al

In response, the Examiner continues to consider the above mentioned language as functional because it recites the manner in which the removable mounting operates. Further, the Examiner disagrees with Applicant's statement that the functional language cannot inherently be met by the teachings of Hashimoto et al. Hashimoto et al does teach that the housing (R) and the filled receptacle holder (S) are both sealed. Col. 19, lines 15-18 teaches that stocker chamber (S) is sealed by covering G1. Lines 30-36 teach that the housing (R) is sealed by covering G7. Figure 39, which shows stocker chamber (S) connected to housing (R), also shows each of (S) and (R) having individual feet and castors, to allow (S) to be "removably mounted" to (R). Since both the stocker chamber and the housing are sealed by different coverings (G1 and G7), they are sealed from one another. Also, when they are moved apart from one another, they will remain to be protected from the ambient environment. Thus, Applicants are mistaken in stating that Hashimoto et al fails to teach a filled receptacle holder being removably mounted to the housing, wherein the receptacle holder and housing remain sealed from each other and the ambient environment when they are moved from each other.

  
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